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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,481	08/29/2000	Curtis Wong	MS155614.1	8554

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EXAMINER	
SHANG, ANNAN Q	

ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
12/14/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/650,481	WONG ET AL.	
	Examiner	Art Unit	
	Annan Q. Shang	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 8-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows:

Claims 8-15 recites a "signal" *modulated/encoded/embodied on a carrier wave/etc,* with functional descriptive material. While functional descriptive material may be claimed as a statutory product (i.e., a "manufacture") when embodied on a tangible computer readable medium, a "signal" per se does not fall within any of the four statutory classes of 35 U.S.C. §101. A "signal" is not a process because it is not a series of steps per se. Furthermore, a "signal" is not a "machine", "composition of matter" or a "manufacture" because these statutory classes "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." (***1 D. Chisum, Patents § 1.02 (1994)).*** Machines, manufactures and compositions of matter are embodied by physical structures or material, whereas a "signal" has neither a physical structure nor a tangible material. That is, a "signal" is not a "machine" because it has no physical structure, and does not perform any useful, concrete and tangible result. Likewise, a "signal" is not a "composition of matter" because it is not "matter", but rather a form of energy. Finally, a "signal" is not a "manufacture" because all

traditional definitions of a "manufacture" have required some form of physical structure, which a claimed signal does not have.

> A "manufacture" is defined as "the production of articles for use from raw materials or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." ***Diamond v. Chakrabarty, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting American Fruit Growers, Inc. v. Brogdex Co., 283 U.S. 1, 11, 8 USPQ 131, 133 (1931)***.

Therefore, a "signal" is considered non-statutory because it is a form of energy, in the absence of any physical structure or tangible material, that does not fall within any of the four statutory classes of 35 U.S.C. §101.

NOTE: Refer to Annex IV, section (c) of the USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility", Official Gazette notice of 22 November 2005 (currently at http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4, 6-9, 11-16, 18-23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shoff et al (6,240,555)** in view of **Hirata (6,374,406)**.

As to claims 1-4, 6-9, 11-16, 18-23 and 25-26, **Shoff** discloses a system (figs.3 and 4) for representing at least one of an audio and visual program comprising:

A token (Packet fig.3) having a schema that identifies a corresponding program so that a recording system (Viewer Computing Device 'VCD' 62) receiving the token is programmable to render the program based on the token, the token being transportable between at least two computers (VCD 62), the schema comprising a multilevel data structure with a plurality of fields for holding a plurality data types, the schema further comprising a universal global unique identifier (URL) that identifies a specific broadcast program in a format universal for a plurality of broadcast platforms (col.4, line 56-col.5, line 23, line 61-col.6, line 67, col.7, lines 1-50 and col.12, line 48-col.13, line 1+).

Shoff teaches including formatting, timing instructions, etc. to enabling rendering of the content by a browser, but silent to where the instructions in the packet identifies a program so that a recording system receiving the packet is programmable to record the program.

However, **Hirata** discloses a system for controlling an electronic device via a control command signal contained in an electronic mail packet via Internet where the email packet identifies a program so that a recording system receiving the packet is programmable to record the program (figs.1, 10, col.5, ln.31-64, col.6, lines 40-55, col.7, line 11-45 and col.9, lines 5-13).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Hirata into the system of Shoff to enable a

user to send an email packet for reservation of a recording on a recording device for later playback as desired.

Claim 7 is met as discussed with respect to claims 1-4.

As to claims 8-9, the claimed "An electronic signal..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-4.

Claims 11-15 are met as previously discussed with respect to claims 1-4.

As to claim 16, the claimed "A computer-readable medium having stored there..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-4.

Claims 18 and 19 are met as previously discussed with respect to claims 1-4.

As to claims 20 and 21, the claimed "A system for facilitating programming of an associated device..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-4.

As to claims 22 and 23, the claimed "A method for facilitating programming a recording system ..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-4.

Claims 25 and 26 are met as previously discussed with respect to claims 1-4.

5. Claims 10, 17 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over **Shoff et al (6,240,555)** in view of **Hirata (6,374,406)** as applied to claims 9, 16 and 23 above

As to claims 10, 17 and 24, **Shoff** as modified by **Hirata,** fail to teach including of the token in an attachment to the email. However the examiner gives official notice that it is notoriously well known in the art of electronic mail to use an attachment for the purpose of transporting executable commands.

Therefore it is submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an attachment to transport the control command string for the purpose of separating executables from the text portion of messages.

Response to Arguments

6. Applicant's arguments with respect to claims 1-4 and 6-26 have been considered but are moot in view of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection discussed above. **This office action is made Final.**

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leak et al (7,174,562) disclose interactive TV triggers having connected content/disconnected content attributes.

Rowe et al (6,792,615) disclose encapsulated, streaming media automation and distribution system.

Wang (6,675,385) discloses HTML EPG for MPEG digital TV system.

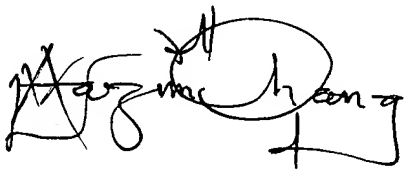
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free).** If you would like assistance from a **USPTO Customer Service Representative or access** to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.**



Annan Q. Shang